

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

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**DEANDRE SIMMONS**

2023 Northwolf Street  
Baltimore, MD 21213

and

**DARIUS GREEN IV**

8015 Mandan Road, Apt. 101  
Greenbelt, MD 20770

**Plaintiffs,**

v.

**APPLE INC.**

1 Infinite Loop  
Cupertino, CA 95014

**Defendant.**

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Civil Case No. 8:17-cv-617

**JURY TRIAL DEMANDED**

**COMPLAINT**

(Under 42 U.S.C. § 1981, 1982, 1985)

1. Now comes the Plaintiffs Deandrae Simmons (hereinafter “Mr. Simmons” or “Simmons”) and Darius Green (hereinafter “Mr. Green” or “Green”), by and through their attorney, Torrance Colvin, of The Colvin Law Firm, complaining against Apple, Inc. (hereinafter “Defendant” or “Apple” or “Store” and refers to its company, employees, assigns, managers and agents) for racial discrimination on the basis of their race (African American) and alleges as follows:

### **JURISDICTION AND VENUE**

2. This action arises under the Constitution of the United States, particularly the First, and Fourteenth Amendments to the Constitution of the United States, the Due Process Clause of the United States Constitution, and under the laws of the United States, particularly the Civil Rights Act of 1866, Title 42 U.S.C. §§ 1981 and 1982.

3. This Court has jurisdiction of this cause of action under Title 28 of the United States Code §§ 1331 and 1343 (28 U.S.C.A. §§ 1331 and 1343).

4. Venue is placed in this District because the events in question occurred in this jurisdiction as the Apple Store location in question is located in this District.

### **DEMAND FOR A TRIAL BY JURY**

5. The Plaintiff demands trial by Jury on all counts in this complaint pursuant to Seventh Amendment to the United States Constitution, and pursuant to Rule 38 of the Federal Rules of Civil Procedure.

### **PARTIES**

6. Plaintiff Deandre Simmons is an African American/Black citizen of the State of Maryland.

7. Plaintiff Darius Green is an African American/Black citizen of the State of Maryland.

8. Defendant is a company incorporated in the State of California with business locations throughout the United States, including the State of Maryland in the City of Bethesda.

9. Plaintiffs were subjected to race discrimination while shopping and purchasing Apple, Inc. products at the Apple Store located at 4860 Bethesda Avenue, Bethesda, Maryland 20814 and denied the privileges afforded to White and non-Black/African American customers and shoppers.

10. Plaintiffs were racially profiled before, during and after the purchase of their Apple products at the location in question, were subjected to unlawful detention by local authorities at the behest of Apple for appearing “suspicious” before, during and after their purchase of Apple Store products, and were subjected to racial profiling in violation of their constitutional rights when the Apple Store employees called 911 to report two suspicious black men at the store and summoned the local police department to the location.

11. Defendant and its employees engaged in a pattern and practice of “racial profiling” and targeting of African American /Black customers at its Apple Store locations. Apple Store and its employees profiled the Plaintiffs as either shoplifters or as persons committing fraud or other crimes of deceit, causing them to be unlawfully detained by the Montgomery County Maryland Sheriff’s Department, though neither Plaintiff had committed any crime.

12. Defendant is legally responsible for the incidents, injuries, and damages set forth herein, and Defendant proximately caused the incident, injuries, and damages by reason of their negligence, negligent supervision, training, management or control, violation of constitutional rights, or by reason of other personal, vicarious, or imputed negligence, or fault, whether based on agency, employment, control, whether severally or jointly, or whether based on any other act or omission.

13. Defendant is legally responsible for, the incidents, unlawful conduct, injuries, and

damages alleged by participating in the unlawful conduct, or acting jointly or conspiring with others to act, by authorizing or allowing, explicitly or implicitly, policies, plans, customs, practices, actions, or omissions that led to the unlawful conduct, by failing to take action to prevent the unlawful conduct, by failing or refusing to initiate and maintain adequate training or supervision, and thus constituting deliberate indifference to Plaintiff's rights, and by ratifying the unlawful conduct that occurred by agents and officers under their direction and control, including failing to take remedial or disciplinary action.

14. Plaintiffs are informed and believe and therefore alleges that at all times mentioned in this Complaint, Defendant's employees were the agents, servants, joint ventures, partners, and/or co-conspirators of Defendant Apple Inc. and that at all times, each of Defendant's employees and/or agents was acting within the course and scope of that relationship with Defendant Apple Inc..

15. Plaintiffs are informed and believe, and therefore allege, that the violations of the Plaintiffs' constitutional rights complained of herein were intentional and or negligently and caused by customs, policies, and/or practices of authorized policymakers of Apple, Inc. and other supervisory officials of Apple, Inc., which encouraged, authorized, directed, condoned, and/or ratified the unconstitutional and unlawful conduct complained of in this Complaint. These customs, policies, and/or practices were the moving force behind the violations alleged, and include, but are not limited to intentionally and systematic racial discrimination, failing to maintain adequate policies, failing to adequately train, supervise, and control its employees, failing to investigate and impose discipline on employees who employ discriminatory methods and behavior against African American customers, and failing to adopt other remedial measures

and policies to ensure that such constitutional violations do not recur.

16. Defendants have engaged in a pattern and practice of civil rights violations and other tortious conduct at its Bethesda, Maryland location, and other locations, both domestically and internationally, which has been carried out by its employees and agents within the scope of its agents employment; and or the Defendant's employees have acted intentionally in violation of civil rights laws design to protect citizens against such discriminatory behavior. These civil rights violations by Apple Store employees have occurred with the knowledge and acquiescence of Apple, Inc. at the highest corporate management levels.

### **FACTS**

17. On June 17, 2016, at approximately 5:00 p.m. the Plaintiffs, two Apple account holders, entered the Apple Store located at 4860 Bethesda Avenue, Bethesda, Maryland 20814, to purchase two new cellphones. The Plaintiffs followed proper Apple Store protocol and placed their names on a "list" of customers in need of assistance. The Plaintiffs waited in the store until an employee arrived to assist them. While waiting for their names to be called pursuant to Apple's protocol and procedure, the Plaintiffs were subjected to constant stares and glares by Apple Store employees, though the Plaintiffs did not understand the need for such stares and glares, as the Plaintiffs had done nothing wrong and had committed no criminal act.

18. At approximately 5:19 pm, the Plaintiffs names were called and they were called to the purchasing counter. While at the counter, the Plaintiff provided their Apple and Verizon Store account information and requested to purchase two iPhone 6s, 64GB model cellphones. The Apple Store employees retrieved two cellphones from their stock. Both Plaintiffs then purchased the cellphones for \$793.94 each. Upon information and belief, the Apple Store

employees verified the validity of their accounts prior to the Plaintiffs being called to the purchasing counter.

19. After spending almost \$1600 at the Apple Store, the Plaintiffs began walking toward the door of the Apple Store location. Upon opening the store door to exit, the Plaintiffs were accosted by two uniformed Montgomery County Sherriff's Department officers who detained them for almost an hour in front of the Apple Store location. The Plaintiffs were tackled and slammed to the ground by the officers who then required the Plaintiffs to sit on the ground with the heat of the sun pounding upon their bodies, as passers-by looked upon them. The Plaintiffs were humiliated and felt ridiculed and harassed. The Plaintiffs were informed by their detaining officers that the Apple Store employees called to report "suspicious" persons at the location and that the two Plaintiffs were the individuals reported by the Apple Store employees to have been engaged in or possibly engaged in fraudulent activity while at the Apple Store. However, the Plaintiffs had engaged in no such behavior and were not charged with any criminal offense against Apple after being unlawfully targeted and detained for almost an hour in front of the Apple Store location at Apple, Inc.'s direction.

20. Upon information and belief, the Defendant has previously been accused, both domestically and internationally, of racial discrimination at its Apple Store locations, and a string of similar complaints suggest a pattern of racially biased policies and practices that have systemically and systematically resulted in widespread discrimination against African Americans/Black customers and or shoppers.

21. Upon information and belief, the ongoing policies and practices of the Defendant corporation denied the Plaintiffs the full and equal benefit of all laws, as enjoyed by non-African

Americans/Black customers and shoppers; that African Americans/Black customers are disproportionately suspected of wrongdoing with no or insufficient probable cause, and are more likely to be denigrated, humiliated, and accused of criminal activity even in the absence of such behavior or reasonable basis to make such claims.

22. As a direct and proximate cause of the Defendant and its employees' actions, the Plaintiffs have suffered irreparable loss and injury, including but not limited to deprivation of civil rights protected by the Constitution, economic loss, mental anguish, feelings of distrust, public humiliation and denigration, loss of sleep, and loss of enjoyment of life and daily activity.

23. The Plaintiffs, therefore, seek to be made whole and seek compensatory and punitive damages for injuries sustained as a result of the Defendant's intentional, reckless, malicious, willful and wanton behavior that showed reckless disregard for the Plaintiffs' rights at that state and federal levels.

### **CAUSES OF ACTION**

#### **COUNT ONE:**

#### **Violation of 42 U.S.C. Section 1981 (Contracts Clause)**

24. Plaintiffs re-allege paragraphs 1 through 23 as though set forth in full herein.

25. Defendant's actions denied the Plaintiffs, on the basis of their race and or color, the same right to make and enforce contracts, including the enjoyment of all benefits, privileges, terms and conditions of a contractual relationship, which is enjoyed by White citizens of the United States, in violation of 42 U.S.C. 1981.

26. As a result of the Defendant's actions, the Plaintiffs have suffered the harm set forth above and throughout this complaint.

**COUNT TWO:  
Violation of 42 U.S.C. Section 1981 (Equal Benefits Clause)**

27. Plaintiff re-alleges paragraphs 1 through 26 as though set forth in full herein.

28. Defendant's actions denied the Plaintiffs, on the basis of their race and or color, the same right to make and enforce contracts, including the enjoyment of all benefits, privileges, terms and conditions of a contractual relationship, which is enjoyed by White citizens of the United States, in violation of 42 U.S.C. Section 1981.

29. As a result of the Defendant's actions, the Plaintiffs have suffered the harm set forth above and throughout this complaint.

**COUNT THREE:  
Violation of 42 U.S.C. Section 1982**

30. Plaintiff re-alleges paragraphs 1 through 29 as though set forth in full herein.

31. Defendant's actions denied the Plaintiffs, on the basis of their race and or color, the same right to hold personal property, including the enjoyment of all benefits, privileges, and terms, which is enjoyed by White citizens of the United States, in violation of 42 U.S.C. Section 1982.

32. As a result of the Defendant's actions, the Plaintiffs have suffered the harm set forth above and throughout this complaint.

**COUNT FOUR:  
Violation of 42 U.S.C. Section 1985(3)  
(Deprivation of Rights and Privileges- Conspiracy Clause)**

33. Plaintiff re-alleges paragraphs 1 through 32 as though set forth in full herein.



34. Defendant's actions denied the Plaintiffs privileges and immunities under the law, on the basis of their race and or color, and Defendant conspired to deprive the Plaintiffs the equal protection of the law and equal privileges of the law, which is enjoyed by White citizens of the United States, in violation of 42 U.S.C. Section 1985, including the rights and privileges afforded under 42 U.S.C. Sections 1981 and 1982.

35. The Defendant has engaged in intentional overt actions in furtherance of their conspiracy by targeting, along with its employees, agents and assigns, African Americans for false claims of fraud, larceny and other unsubstantiated criminal offenses for which no probable cause existed, authorizing, allowing, sanctioning and directing its employees to engage in racial profiling and levelling unjustified claims against African Americans/Blacks having no basis for doing so, other than their race/color.

36. As a result of the Defendant's and its employees' actions, the Plaintiffs have suffered the harm set forth above and throughout this complaint.

**COUNT FIVE:**  
**(Violation of Maryland State Civil Rights Law)**  
**(MSHRL Article, §20-304, Annotated Code of Maryland)**

37. Plaintiff re-alleges paragraphs 1 through 36 as though set forth in full herein.

38. Defendant's actions denied the Plaintiffs, on the basis of their race and or color, the same right to use public accommodations, including the enjoyment of all benefits, privileges, terms, conditions and use of public place, advantages, and facilities, which is enjoyed by White citizens of the United States, in violation of Article, §20-304, Annotated Code of Maryland.

39. The Defendants policies and practices of racial profiling, unlawful detention, questioning, and race and color based discrimination has had a disparate impact on innocent

African American/Black customers and shoppers. The Defendant company has failed to manage its employees and assigns sufficiently.

40. As a result of the Defendant's actions, the Plaintiffs have suffered the harm set forth above and throughout this complaint.

**COUNT SIX:  
(Negligent Hiring, Training, Retention and Supervision)**

41. Plaintiff re-alleges paragraphs 1 through 40 as though set forth in full herein.

42. In hiring, training, retaining, and supervising of Apple Store employees, the Defendant has failed to protect the public, as well as its own employees and agents, from the resulting damage of discriminatory behavior. The Defendant has a duty to avoid and protect against such tortious conduct. The Defendant negligently and or recklessly failed to fulfill its duty of care in the hiring, supervision and retention of its personnel which allowed its personnel, particularly at the Bethesda, Maryland location, to engage in behavior that resulted in the unlawful racial profiling and detention of the Plaintiffs.

43. The Defendant knew or should have known that its personnel had behaved in such a discriminatory manner and continues to engaged in such a discriminatory manner that deprives United States citizens of their basic civil rights, enjoyed freely by White/Caucasian shoppers and customers. The Defendants knew or should have known of the abusive tactics employed by its personnel and proper oversight would have prevented the ongoing discrimination detailed in multiple complaints. Defendant's failure to properly hire, train and supervise its employees created an unreasonable risk of discrimination, bias, and racial profiling that violated citizens' rights and harmed the Plaintiffs.

**PRAYER FOR DAMAGES**

**WHEREFORE**, Plaintiffs respectfully requests judgment against Defendant as follows:

A. That Plaintiffs each be awarded compensatory damages in the amount of One Million Dollars (\$1,000,000.00), together with interest at the legal rate from the date of judgment paid;

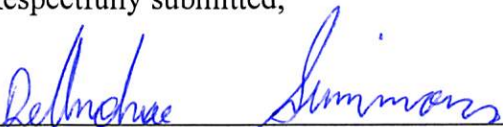
B. That Plaintiffs be awarded punitive damages in the amount of Ten Million Dollars (\$10,000,000.00) as that amount will sufficiently punish the Defendant for its willful and malicious conduct, Said award of punitive damages will serve as an example to prevent a repetition of such conduct in the future;

C. That Plaintiffs be awarded costs of this litigation to be paid by the Defendant; and

D. That Plaintiffs be awarded reasonable attorney's fees incurred in connection with the prosecution of this action to be paid by the Defendant.

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Respectfully submitted,

  
Deandre Simmons

  
Darius Green IV

The Colvin Law Firm

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